

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1340 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning state
- 3 and local administration and to make an appropriation.
- 4 Page 10, between lines 27 and 28, begin a new paragraph and insert:
- 5 "SECTION 11. IC 4-30-1-1 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The purpose of
- 7 this article is to establish lottery games in Indiana that are the best
- 8 available and that enable the people of Indiana to benefit from
- 9 significant additional money:
- 10 (1) to encourage outstanding Indiana students to pursue
- 11 higher education opportunities within Indiana and to enter
- 12 Indiana's workforce after graduation;
- 13 (2) to accelerate Indiana's growth by providing challenge
- 14 grants to state educational institutions to support the
- 15 recruitment and retention of world class scholars; and
- 16 (3) for capital improvements.
- 17 SECTION 12. IC 4-30-1-2 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. In construing
- 19 this article, it is the intent of the general assembly that the following
- 20 policies be carried out:
- 21 (1) That the lottery games be operated ~~by~~ **as provided in this**
- 22 **article.**
- 23 (2) **That** the state lottery commission ~~which is~~ created by
- 24 IC 4-30-3 as a separate body politic and corporate from state

government ~~and~~ should function as much as possible as an entrepreneurial business enterprise.

~~(2)~~ (3) That the general assembly recognizes that the operation of a lottery is a unique activity for state government and that policies and procedures appropriate for the performance of other governmental functions are not necessarily appropriate for the operation of a lottery.

~~(3)~~ (4) That the lottery games be operated as a self-supporting revenue raising operation.

~~(4)~~ (5) That the commission be accountable to the general assembly and the people of Indiana through a system of audits and reports and by complying with financial disclosure, open meetings, and public record laws.

~~(5)~~ (6) That the commission ensure the equitable participation of minorities and women in all phases of the lottery, including instant game and online retailers and vendors. The commission shall establish annual goals:

(A) for the use of minority and women's business enterprises (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3) in construction, professional services, other services, and supplies; and

(B) derived from a statistical analysis of utilization study of lottery contracts that are required to be updated every five (5) years.

The commission shall, in cooperation with the Indiana department of administration, adopt rules under IC 4-22-2 to ensure that the goals set under this subdivision are met.

~~(6)~~ (7) That lottery game advertising and promotion shall be consistent with the dignity and integrity of the state.

SECTION 13. IC 4-30-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. Except as expressly provided in this article, rules adopted by the commission under this article do not apply to a manager or to lottery operations under a management agreement.**

SECTION 14. IC 4-30-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Commission" refers to:

(1) the state lottery commission; or

(2) a successor agency, unless the context clearly denotes otherwise.

SECTION 15. IC 4-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Director" refers to the director of the commission **or the executive director of a successor agency.**

SECTION 16. IC 4-30-2-3.2 IS ADDED TO THE INDIANA CODE

1 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: **Sec. 3.2. "Gaming commission" means the**
3 **Indiana gaming commission established under IC 4-33-3.**

4 SECTION 17. IC 4-30-2-5.3 IS ADDED TO THE INDIANA CODE
5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]: **Sec. 5.3. "Management agreement" means an**
7 **agreement under which a manager will manage the lottery on**
8 **behalf of the commission.**

9 SECTION 18. IC 4-30-2-5.5 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: **Sec. 5.5. "Manager" means an entity formed**
12 **under IC 4-30-20.**

13 SECTION 19. IC 4-30-2-7 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. "Retailer" means**
15 **a person who sells lottery tickets on behalf of the commission under a**
16 **contract with the commission or a manager.**

17 SECTION 20. IC 4-30-2-8 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. "Vendor" means**
19 **a person who provides or proposes to provide goods or services to the**
20 **commission or a manager. The term does not include an employee of**
21 **the commission, a manager, a retailer, or a state agency.**

22 SECTION 21. IC 4-30-2-9 IS ADDED TO THE INDIANA CODE
23 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
24 UPON PASSAGE]: **Sec. 9. "Video lottery game" means an**
25 **electronically simulated game of chance that is displayed on the**
26 **screen or video monitor of a video lottery terminal.**

27 SECTION 22. IC 4-30-3-1 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. There is created**
29 **a state lottery commission as a body politic and corporate separate from**
30 **the state. The commission is composed of five (5) members selected as**
31 **provided in IC 4-30-4. The commission has the powers and duties set**
32 **forth in this article, including the authority to sue and be sued in the**
33 **name of the commission and to adopt a commission seal and symbol.**
34 **The commission shall supervise and administer the operation of the**
35 **Indiana state lottery in accordance with this article.**

36 SECTION 23. IC 4-30-3-4 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. The commission**
38 **shall maintain, or require a manager to maintain, weekly or more**
39 **frequent records of lottery transactions, including the distribution of**
40 **tickets to retailers, revenue received, claims for prizes, prizes paid, and**
41 **other financial transactions of the commission: lottery.**

42 SECTION 24. IC 4-30-3-6 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. The commission**
44 **shall conduct, or require a manager to conduct, market research as**
45 **necessary or appropriate, which may include an analysis of the**
46 **demographic characteristics of the players of each lottery game and an**

analysis of advertising, promotion, public relations, incentives, and other aspects of communications.

SECTION 25. IC 4-30-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commission may:

(1) promote and advertise the lottery; **or**

(2) authorize a manager to promote and advertise the lottery.

(b) A promotion may refer to the total lottery prize, even though the prize may be paid over a period of years.

(c) The commission may:

(1) act as a retailer and conduct promotions involving the dispensing of free lottery tickets; **or**

(2) authorize a manager to act as a retailer and conduct promotions involving the dispensing of free tickets.

(d) The director may:

(1) authorize a sales incentive program for employees of the commission for the purpose of increasing the sales volume and distribution of lottery tickets; **or**

(2) authorize a manager to develop a sales incentive program for:

(A) retailers;

(B) employees of the manager; or

(C) both clauses (A) and (B);

for the purpose of increasing the sales volume and distribution of lottery tickets.

SECTION 26. IC 4-30-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The commission may:

(1) charge fees; **or**

(2) authorize a manager to charge fees;

to persons applying for a contract as a vendor or retailer. The fees must be reasonably calculated to cover the costs of investigations and other activities related to the processing of the application.

SECTION 27. IC 4-30-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The commission may:

(1) enter into contracts; **or**

(2) authorize a manager to enter into contracts;

with retailers under this article to provide adequate and convenient availability of tickets to the public for each game.

SECTION 28. IC 4-30-3-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) **This section applies only to contributions made after May 31, 2008.**

(b) The definitions set forth in IC 3-5-2 apply to this section.

(c) As used in this section, "candidate" refers only to the

1 following:

- 2 (1) A candidate for a state office.
- 3 (2) A candidate for a legislative office.
- 4 (3) A candidate for a local office.

5 (d) As used in this section, "committee" refers to any of the
6 following:

- 7 (1) A candidate's committee.
- 8 (2) A regular party committee.
- 9 (3) A committee organized by a legislative caucus of the house
10 of the general assembly.
- 11 (4) A committee organized by a legislative caucus of the senate
12 of the general assembly.

13 (e) As used in this section, "officer" refers only to either of the
14 following:

- 15 (1) An individual listed as an officer of a corporation in the
16 corporation's most recent annual report.
- 17 (2) An individual who is a successor to an individual described
18 in subdivision (1).

19 (f) For purposes of this section, a person is considered to have
20 an interest in a manager if the person satisfies any of the following:

- 21 (1) The person holds at least a one percent (1%) interest in the
22 manager.
- 23 (2) The person is an officer of the manager.
- 24 (3) The person is an officer of a person that holds at least a
25 one percent (1%) interest in the manager.
- 26 (4) The person is a political action committee of the manager.

27 (g) A manager is considered to have made a contribution under
28 this section if a contribution is made by a person who has an
29 interest in the manager.

30 (h) A manager or person who has an interest in a manager may
31 not make a contribution to a candidate or a committee during the
32 following periods:

- 33 (1) The term during which a manager is a party to a
34 management agreement entered into under this article.
- 35 (2) The three (3) years following the final expiration or
36 termination of the management agreement described in
37 subdivision (1).

38 (i) A person who knowingly or intentionally violates this section
39 commits a Class D felony.

40 SECTION 29. IC 4-30-3-21 IS ADDED TO THE INDIANA CODE
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 21. (a) On the effective date of the first
43 management agreement entered into under this article, the
44 following apply:

- 45 (1) All powers, duties, and liabilities of the state lottery
46 commission are transferred to the gaming commission as the
47 successor agency, except as otherwise provided in this article.

(2) All records and property of the state lottery commission, including appropriations and other funds under its control or supervision, are transferred to the gaming commission as the successor agency, except as otherwise provided in this article.

(3) An amount owed to the state lottery commission before the effective date of the management agreement must be paid to and collected by the gaming commission as the successor agency, except as otherwise provided in the first management agreement.

(4) A reference to the state lottery commission in a statute, rule, or other document is considered a reference to the gaming commission as the successor agency, unless the context clearly denotes otherwise.

(b) As the successor agency, the gaming commission may employ investigators and other staff necessary to carry out this article. The employees hired by the commission under this article may be the same as the commission's employees hired under IC 4-33.

(c) The gaming commission may exercise any of its powers under this article or IC 4-33 as necessary or desirable for the performance of the commission's duties and the execution of the commission's powers under this article.

SECTION 30. IC 4-30-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The ~~division of security~~ **commission** shall conduct investigations of vendors, retailers, and employees of the commission, ~~or a manager~~, including applicants for contracts or employment, necessary to ensure the security and integrity of the operation of the lottery. The commission may require persons subject to an investigation to provide any information, including fingerprints, that is needed by the state police department to carry out the investigation or that is otherwise necessary to facilitate access to state and criminal history information.

SECTION 31. IC 4-30-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state police department shall provide:

(1) assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary lottery operations; and

(2) any other assistance that may be requested by the ~~director~~ **commission** and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the department of state revenue and the professional licensing agency, shall upon request provide the ~~lottery~~ **commission** with information relevant to an investigation conducted under this article. The commission shall reimburse an agency for the actual cost of providing assistance under

1 this section.

2 SECTION 32. IC 4-30-6-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section**
4 **does not apply if the commission enters into a management**
5 **agreement.**

6 ~~(a)~~ **(b)** After the first full year of ticket sales to the public or sooner
7 if the director considers necessary, the commission shall engage an
8 independent firm experienced in security procedures, including
9 computer security and systems security, to conduct a comprehensive
10 study and evaluation of all aspects of security in the operation of the
11 division of security.

12 ~~(b)~~ **(c)** The part of the security report containing the overall
13 evaluation of the commission shall be presented to the commission and
14 the governor. Any part of the security report containing information
15 protected from disclosure by IC 5-14-3 shall not be disclosed by the
16 commission or by the governor.

17 ~~(c)~~ **(d)** After the initial security study, similar studies of security
18 shall be conducted as the commission determines to be appropriate but
19 at least once every two (2) years.

20 SECTION 33. IC 4-30-6-8 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 8. **(a) If the commission enters into a**
23 **management agreement, the manager shall implement a security**
24 **program as provided in the management agreement.**

25 **(b) After the first anniversary of the effective date of a**
26 **management agreement, or sooner if the director considers**
27 **necessary, the commission shall engage an independent firm**
28 **experienced in security procedures, including computer security**
29 **and systems security, to conduct a comprehensive study and**
30 **evaluation of all aspects of security in the manager's lottery**
31 **operations.**

32 **(c) The part of the security report containing the overall**
33 **evaluation of the manager shall be presented to the commission**
34 **and the governor. Any part of the security report containing**
35 **information protected from disclosure by IC 5-14-3 shall not be**
36 **disclosed by the commission or by the governor.**

37 **(d) After the security study described in subsection (b), similar**
38 **studies of security shall be conducted as the commission determines**
39 **to be appropriate but at least once every two (2) years.**

40 SECTION 34. IC 4-30-7-3 IS ADDED TO THE INDIANA CODE
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 3. **(a) This section applies to retailer**
43 **contracts after the effective date of a management agreement.**

44 **(b) If:**

45 **(1) an application of an applicant to become a retailer for any**
46 **type of lottery game is denied;**

1 **(2) an application to renew a retailer contract is denied;**
 2 **(3) an application to change ownership or location is denied;**
 3 **or**
 4 **(4) the certificate of authority of a retailer is revoked;**
 5 **by the manager, the retailer or applicant may appeal the decision**
 6 **under rules established by the commission. A decision by the**
 7 **commission or a manager with respect to a retailer contract is not**
 8 **subject to IC 4-21.5.**

9 **(c) This section does not prohibit a retailer from continuing to**
 10 **perform under a retailer contract while an appeal is pending. The**
 11 **manager may not delay payment to a retailer of undisputed**
 12 **amounts as a result of the filing of an appeal under rules**
 13 **established by the commission. However, this right to continue to**
 14 **operate does not apply to a retailer if the commission declares in**
 15 **a decision that an emergency exists that requires the immediate**
 16 **termination of the contract and certificate.**

17 SECTION 35. IC 4-30-8-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The
 19 commission may enter into contracts for the purchase, lease, or
 20 lease-purchase of goods or services necessary to carry out this article.
 21 The commission may ~~not enter into contracts with any person or entity for the total~~
 22 ~~operation and administration of the lottery established by this article;~~
 23 but may enter into contracts and make purchases that integrate
 24 functions such as lottery game design, supply of goods and services,
 25 and advertisement.

26 **(b) The commission may authorize a manager to:**

- 27 **(1) enter into contracts for the purchase, lease, or**
 28 **lease-purchase of goods or services necessary to carry out this**
 29 **article; and**
 30 **(2) enter into contracts and make purchases that integrate**
 31 **functions, such as lottery game design, supply of goods and**
 32 **services, and advertisement.**

33 **Contracts and purchases under this subsection are not subject to**
 34 **IC 5-22.**

35 ~~(b)~~ **(c)** In all procurement decisions, the director, ~~or~~ the commission,
 36 if the commission chooses to make the decision, **or a manager, if**
 37 **authorized by the commission,** shall take into account the particularly
 38 sensitive nature of the lottery and shall consider the competence,
 39 quality of product, experience, and timely performance of the vendors
 40 in order to promote and ensure security, honesty, fairness, and integrity
 41 in the operation and administration of the lottery and the objective of
 42 raising net revenues for the benefit of the public purposes described in
 43 this article.

44 SECTION 36. IC 4-30-8-2 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The ~~division of~~
 46 **security commission** shall investigate the financial responsibility,
 47 security, and integrity of a person who submits a bid, proposal, or offer

as part of a major procurement. At a minimum, each person must disclose at the time of submitting a bid, proposal, or offer to the commission **or a manager** all of the following items:

(1) A disclosure of the vendor's name and address and the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors, and each stockholder in the corporation, except that in the case of owners of equity securities of a publicly traded corporation only the names and addresses of those known to the corporation to own beneficially at least five percent (5%) in equity securities need be disclosed.

(B) If the vendor is a trust, the trustees and all persons entitled to receive income or benefits from the trust.

(C) If the vendor is an association, the members, officers, and directors.

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of that business for each state or jurisdiction.

(3) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including lottery goods and services, and of the nature of the goods and services involved for each state or jurisdiction.

(4) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked or terminated a gaming license or contract of any kind and of the disposition in each state or jurisdiction. If a gaming license or contract has been revoked or terminated or has not been renewed or a gaming license application or contract bid has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying this failure to receive a license or contract must be disclosed.

(5) A tax clearance statement from the department of state revenue certifying that the vendor is not on the most recent tax warrant list.

(6) A disclosure of the details of a conviction or judgment of a state or federal court of the vendor of a felony or any other criminal offense other than a traffic violation.

(7) A disclosure of the details of a bankruptcy, an insolvency, a reorganization, or any pending litigation of the vendor.

(8) If a vendor subcontracts part of the work to be performed, the vendor shall disclose all the information required by this chapter for the subcontractor as if the subcontractor were a vendor.

(9) Additional disclosures and information the commission

determines appropriate for the procurement involved.

SECTION 37. IC 4-30-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A contract for a major procurement with a vendor that does not comply with the disclosure requirements described in section 2 of this chapter may not be entered into and is not enforceable. A contract with a vendor who does not comply with the requirements for periodically updating the disclosures during the tenure of the contract as specified in the contract may be terminated by the commission **or by the manager**. This section shall be construed broadly and liberally to achieve full disclosure of all information necessary to allow for a full and complete evaluation by the commission of the competence, integrity, background, and character of vendors for major procurement.

SECTION 38. IC 4-30-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.5. Licensing of Lottery Vendors

Sec. 1. This chapter applies to a major procurement if a management agreement is in effect.

Sec. 2. As used in this chapter, "licensed vendor" means a person issued a vendor's license under this chapter.

Sec. 3. As used in this chapter, "vendor's license" means a license issued by the commission under this chapter.

Sec. 4. (a) A person may not sell, lease, provide, or contract to sell, lease, or provide any of the following equipment, supplies, or services to a manager unless the person holds a vendor's license:

- (1) Printing of tickets to be used in a lottery game.**
- (2) Consultation services related to the design or operation of games offered in the lottery.**
- (3) Any goods and services involving any of the following:**
 - (A) The official recording for lottery game play purposes of a player's selection in a lottery game involving player selections.**
 - (B) The receiving of a player's selections directly from a player in a lottery game involving player selections.**
 - (C) The drawing, determination, or generation of winners in lottery games.**
 - (D) The security services required for the operation of the lottery.**

(b) Lottery supplies and equipment may not be distributed unless the lottery supplies and equipment conform to standards adopted by the commission under this chapter.

Sec. 5. The commission may issue a vendor's license under this chapter to a person if:

- (1) the person has:**
 - (A) applied for the vendor's license;**
 - (B) paid a nonrefundable application fee set by the**

- 1 commission;
- 2 (C) paid an annual license fee set by the commission; and
- 3 (D) submitted the following on forms provided by the
- 4 commission:
- 5 (i) if the applicant is an individual, two (2) sets of the
- 6 individual's fingerprints; and
- 7 (ii) if the applicant is not an individual, two (2) sets of
- 8 fingerprints for each officer of the applicant; and
- 9 (2) the commission has determined that the applicant is
- 10 eligible for a vendor's license.

11 **Sec. 6. A person may not receive a vendor's license if:**

- 12 (1) the person has been convicted of a felony under Indiana
- 13 law, the laws of any other state, or laws of the United States;
- 14 (2) the person has knowingly or intentionally submitted an
- 15 application for a license under this chapter that contains false
- 16 information;
- 17 (3) the person is a member of the commission or the Indiana
- 18 gaming commission;
- 19 (4) the person is an officer, a director, or a managerial
- 20 employee of a person described in subdivision (1) or (2);
- 21 (5) the person employs an individual who:
- 22 (A) is described in subdivision (1), (2), or (3); and
- 23 (B) participates in the management or operation of the
- 24 lottery;
- 25 (6) a license issued to the person:
- 26 (A) under this article or IC 4-33; or
- 27 (B) to supply gaming supplies in another jurisdiction;
- 28 has been revoked.

29 **Sec. 7. The following information submitted, collected, or**
 30 **gathered as part of an application to the commission for a vendor's**
 31 **license is confidential for purposes of IC 5-14-3-4:**

- 32 (1) Any information concerning a minor child of an applicant.
- 33 (2) The Social Security number of an applicant or the spouse
- 34 of an applicant.
- 35 (3) The home telephone number of an applicant or the spouse
- 36 of an applicant.
- 37 (4) An applicant's birth certificate.
- 38 (5) An applicant's driver's license number.
- 39 (6) The name or address of a previous spouse of the applicant.
- 40 (7) The date of birth of an applicant or the spouse of an
- 41 applicant.
- 42 (8) The place of birth of an applicant or the spouse of an
- 43 applicant.
- 44 (9) The personal financial records of an applicant, the spouse
- 45 of an applicant, or a minor child of an applicant.

46 **Sec. 8. (a) A licensed vendor shall furnish to the commission a**
 47 **list of all equipment, devices, supplies, and services provided to a**

1 manager in connection with the lottery authorized under this
2 article.

3 (b) A licensed vendor shall keep books and records for the
4 furnishing of equipment, devices, supplies, and services to the
5 lottery separate from books and records of any other business
6 operated by the licensed vendor.

7 (c) A licensed vendor shall file a quarterly return with the
8 commission and the manager listing all sales and leases.

9 Sec. 9. A licensed vendor's equipment, devices, or supplies that
10 are used by a person in an unauthorized gambling or lottery
11 operation shall be forfeited to the state.

12 Sec. 10. (a) Unless a person's vendor's license is suspended,
13 expires, or is revoked, the vendor's license may be renewed
14 annually upon:

15 (1) the payment of an annual renewal fee set by the
16 commission; and

17 (2) a determination by the commission that the licensed
18 vendor is in compliance with this article.

19 (b) The holder of a vendor's license shall undergo a complete
20 investigation every three (3) years to determine that the licensed
21 vendor is in compliance with this article.

22 (c) Notwithstanding subsection (b), the commission may
23 investigate the holder of a vendor's license at any time the
24 commission determines it is necessary to ensure that the licensed
25 vendor is in compliance with this article.

26 (d) The holder of a vendor's license shall bear the cost of an
27 investigation or reinvestigation of the licensed vendor and any
28 investigation resulting from a potential transfer of ownership.

29 Sec. 11. If a licensed vendor or an employee of a licensed vendor
30 violates this article or engages in a fraudulent act, the commission
31 may do any combination of the following:

32 (1) Suspend, revoke, or restrict the person's vendor's license.

33 (2) Require the removal of any employee of a licensed vendor
34 who violates this article or engages in a fraudulent act.

35 (3) Impose a civil penalty of not more than twenty-five
36 thousand dollars (\$25,000) against a person who has been
37 issued a vendor's license for each violation of this article.

38 SECTION 39. IC 4-30-9-2 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In the
40 selection of retailers, the commission **or a manager** shall consider
41 factors such as the following:

42 (1) Financial responsibility.

43 (2) Integrity.

44 (3) Reputation.

45 (4) Accessibility of the place of business or activity to the public.

46 (5) Security of the premises.

47 (6) The sufficiency of existing retailers to serve the public.

(7) Convenience.

(8) The projected volume of sales for the lottery game involved.

(b) In consideration of the factors in subsection (a), the commission, **or a manager if a management agreement is in effect**, may require the information it considers necessary of any person proposing to enter into a retailer's contract. However, the commission may not:

(1) establish a limitation on the number of retailers; ~~and~~ **or**

(2) **permit a manager to establish a limitation on the number of retailers.**

The commission or manager shall make every effort to include small business participation as retailers. Retailer selections shall be based on business considerations and public convenience. Retailers shall be selected without regard to political affiliation.

SECTION 40. IC 4-30-9-3, AS AMENDED BY P.L.2-2007, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The commission may not contract with a person as a retailer that:

(1) is less than eighteen (18) years of age;

(2) is engaged exclusively in the business of selling lottery tickets, although this does not preclude the commission from selling lottery tickets;

(3) is on the most recent tax warrant list provided to the commission by the department of state revenue;

(4) has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

(A) the person has been pardoned or the person's civil rights have been restored;

(B) subsequent to the conviction or entry of the plea the person has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

(C) if the person is a firm, an association, a partnership, a trust, a corporation, a limited liability company, or other entity, the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of the plea; or

(5) is:

(A) a department, an agency, a commission, a division, an authority, a board, a bureau, a hospital, or an office of the state, including a state educational institution;

(B) an entity that performs an essential governmental function;

(C) part of the judicial department of government;

(D) part of the legislative department of government; or

(E) a political subdivision of the state, including an agency, an

1 authority, a board, a bureau, a commission, a committee, a
 2 council, a department, a division, an institution, an office, an
 3 officer, or other similar body of a political subdivision.

4 **(b) The commission may not authorize a manager to enter into**
 5 **a retailer's contract with a person described in subsection (a).**

6 SECTION 41. IC 4-30-9-4 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The
 8 commission shall issue a certificate of authority to each ~~person with~~
 9 ~~whom it contracts as~~ a retailer for purposes of display under section 6
 10 of this chapter. The issuance of a certificate does not confer upon the
 11 retailer any right apart from that specifically granted in the contract.
 12 The authority to act as a retailer is not assignable or transferable.

13 **(b) The commission may authorize a manager to issue a**
 14 **certificate described in subsection (a) if a management agreement**
 15 **is in effect.**

16 SECTION 42. IC 4-30-9-5, AS AMENDED BY P.L.227-2007,
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 5. A contract executed by the commission
 19 under this chapter must specify the reasons for a suspension or
 20 termination of the contract by the commission, including the following:

- 21 (1) Commission of a violation of this article, IC 35-45-5-3,
 22 IC 35-45-5-3.5, IC 35-45-5-4, or a rule adopted under this article.
- 23 (2) Failure to accurately account for lottery tickets, revenues, or
 24 prizes as required by the ~~commission.~~ **contract.**
- 25 (3) Commission of a fraud, deceit, or misrepresentation.
- 26 (4) Insufficient sale of tickets.
- 27 (5) Conduct prejudicial to public confidence in the lottery.
- 28 (6) A material change in a matter considered by the commission
 29 executing the contract with the retailer.

30 SECTION 43. IC 4-30-9-6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Each retailer
 32 shall post and keep conspicuously displayed in a location on the
 33 premises accessible to the public the following:

- 34 (1) Its certificate of authority.
- 35 (2) With respect to each game, a statement supplied by the
 36 commission **or a manager** of the estimated odds of winning a
 37 prize for the game.

38 SECTION 44. IC 4-30-9-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Before the
 40 commission **or a manager** may enter into a contract with a retailer, the
 41 retailer must provide a tax clearance statement from the department of
 42 state revenue that certifies that the retailer does not owe delinquent
 43 state taxes.

44 SECTION 45. IC 4-30-9-8 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A contract with
 46 a retailer may not authorize the sale of lottery tickets at more than one

(1) location. The commission, **or the manager if a management agreement is in effect**, may enter into more than one (1) contract with a retailer that has more than one (1) business location. A retailer must have a separate certificate of authority to sell lottery tickets for each business location approved by the commission **or the manager**. A retailer may sell lottery tickets only at the location stated on the certificate of authority.

SECTION 46. IC 4-30-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. With respect to a retailer whose rental payments for premises are contractually computed in whole or in part on the basis of a percentage of retail sales, and where the computation of retail sales is not explicitly defined to include the sale of tickets in a lottery, for purposes of such a computation the amount of retail sales for lottery tickets by the retailer may not exceed the amount of the compensation received by the retailer from the commission **or a manager**.

SECTION 47. IC 4-30-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. A payment by a retailer to the commission **or a manager** for tickets may not be in cash. All payments must be in the form of a check, bank draft, electronic funds transfer, or other financial instrument ~~authorized by the director~~: **specified by the commission or the manager if a management agreement is in effect**.

SECTION 48. IC 4-30-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. All money received by each retailer from the operation of the lottery, including all ticket sales, interest, gifts, and donations, less the amount retained as compensation for the sale of tickets and the amount paid out as prizes:

(1) shall be remitted to the commission or deposited in a public depository, at the times and as directed by the commission; **or**

(2) **if a management agreement is in effect, shall be remitted to the manager or deposited in a public depository, at the times and as directed by the manager.**

The commission **or the manager, as the case may be**, is responsible for all administrative functions related to the receipt of funds ~~The commission and~~ may require each retailer to ~~file with the commission~~ **submit** reports of the retailer's receipts and transactions in the sale of lottery tickets in the form and containing the information ~~the commission requires~~: **required by the retailer's contract and by any rules adopted under this article**. The commission **or the manager** may require any person, including a qualified public depository, to perform any function, activity, or services in connection with the operation that the commission **or manager** determines to be advisable under this article. These functions, activities, or services constitute lawful functions, activities, and services of the person.

SECTION 49. IC 4-30-10-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The commission **or a manager authorized by the commission** may require retailers to establish separate electronic funds transfer accounts for the purpose of receiving money from ticket sales, making payments to the commission **or manager**, and receiving payments from the commission **or manager, as the case may be.**

SECTION 50. IC 4-30-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** Each retailer is liable to:

(1) the commission; **or**

(2) a manager, if a management agreement is in effect;

for any and all tickets accepted or generated by an employee or representative of that retailer. These tickets are considered to have been purchased by the retailer, unless returned to the commission **or manager** within the time and in the manner prescribed by the ~~commission~~ **retailer's contract or by a rule adopted under this article.**

(b) All money received by retailers from the sale of lottery tickets, less the amount retained as compensation for the sale of the tickets and the amount paid out as prizes by the retailer, shall be held in trust until its:

(1) delivery to the commission **or a manager**; **or**

(2) electronic transfer to the administrative trust fund.

SECTION 51. IC 4-30-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Notwithstanding IC 26-1-9.1-406**, the right of any person to a prize is not assignable. A prize may be paid to the estate of a deceased prize winner or to a person designated under an appropriate judicial order.

SECTION 52. IC 4-30-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A prize may not be paid to a person who is less than eighteen (18) years of age unless the winning ticket was lawfully purchased and made a gift to the minor. In that case the commission shall:

(1) direct the payment to an adult member of the minor's family or the legal guardian of the minor as custodian for the minor; **or**

(2) require a manager to direct the payment to an adult member of the minor's family or the legal guardian of the minor as custodian for the minor.

The person named as guardian has the same powers and duties as prescribed for a guardian under Indiana guardianship law.

SECTION 53. IC 4-30-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A prize may not be paid if it arises from tickets that are determined to be:

(1) stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, or unreadable;

(2) not received or not recorded by:

- 1 (A) the commission's applicable deadlines; **or**
 2 **(B) the manager's applicable deadlines, if a management**
 3 **agreement is in effect;**
 4 (3) lacking in captions that confirm and agree with the lottery play
 5 symbols that are appropriate to the lottery game involved; or
 6 (4) not in compliance with any additional specific rules and public
 7 or confidential validation and security tests of:
 8 (A) the commission; **or**
 9 **(B) the manager, if a management agreement is in effect;**
 10 applicable to the particular lottery game involved.

11 SECTION 54. IC 4-30-11-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. For the
 13 convenience of the public, retailers may be authorized to pay winners
 14 an amount not to exceed five hundred ninety-nine dollars (\$599) after
 15 performing validation procedures on their premises that are required
 16 by:

- 17 (1) the commission; **or**
 18 **(2) the manager, if a management agreement is in effect;**
 19 for the lottery game involved.

20 SECTION 55. IC 4-30-11-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Holders of
 22 lottery tickets are entitled to claim prizes for one hundred eighty (180)
 23 days after the drawing or at the end of the lottery game play in which
 24 the prize was won. ~~However, with respect to a game in which the~~
 25 ~~player may determine instantly if the player has won or lost, the right~~
 26 ~~to claim prizes exists for sixty (60) days after the end of the lottery~~
 27 ~~game. If a valid claim is not made for a prize within the applicable~~
 28 ~~period, the prize is considered an unclaimed prize for purposes of~~
 29 ~~section 9 of this chapter.~~

30 SECTION 56. IC 4-30-11-8 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A prize may not
 32 be paid on a ticket that is purchased or sold in violation of this article
 33 or to a person who is prohibited from purchasing a lottery ticket under
 34 this article. ~~Such a prize is considered an unclaimed prize for purposes~~
 35 ~~of section 9 of this chapter.~~

36 SECTION 57. IC 4-30-11-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The
 38 commission ~~is~~ **and its members and employees are** discharged of all
 39 liability upon payment of a prize.

40 **(b) If a management agreement is in effect, the manager and its**
 41 **directors, officers, employees, agents, and equity holders are**
 42 **discharged of all liability upon payment of a prize.**

43 **(c) If an annuity is purchased by a manager to cover the**
 44 **payment of a prize and is assigned to a prize winner, the following**
 45 **are relieved of any liability to the prize winner:**

- 46 **(1) The state.**

1 **(2) The commission and its members and employees.**

2 **(3) The manager and its directors, officers, employees, agents,**
 3 **and equity holders.**

4 SECTION 58. IC 4-30-11-11 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The
 6 treasurer of state, the department of state revenue, the department of
 7 administration, the Indiana department of transportation, the attorney
 8 general, and the courts shall identify to the commission, **or to the**
 9 **manager, if a management agreement is in effect**, in the form and
 10 format prescribed by the commission and approved by the auditor of
 11 state, a person who:

12 (1) owes an outstanding debt ~~to~~ to a state agency;

13 (2) owes delinquent state taxes; or

14 (3) owes child support collected and paid to a recipient through
 15 a court.

16 (b) Before the payment of a prize of more than five hundred
 17 ninety-nine dollars (\$599) to a claimant identified under subsection (a),
 18 the commission **or the manager, if a management agreement is in**
 19 **effect**, shall transmit the prize money to the auditor of state who shall
 20 authorize payment of the balance to the prize winner after deduction of
 21 the obligation. If a prize winner owes multiple obligations subject to
 22 offset under this section and the prize is insufficient to cover all
 23 obligations, the amount of the prize shall be applied as follows:

24 (1) First, to the child support obligations owed by the prize winner
 25 that are collected and paid to a recipient through a court.

26 (2) Second, to judgments owed by the prize winner.

27 (3) Third, to tax liens owed by the prize winner.

28 (4) Fourth, to unsecured debts owed by the prize winner.

29 Within each of the categories described in subdivisions (1) through (4),
 30 the amount and priority of the prize shall be applied in the manner that
 31 the auditor of state determines to be appropriate. The commission shall
 32 reimburse the auditor of state pursuant to an agreement under
 33 IC 4-30-15-5 for the expenses incurred by the auditor of state in
 34 carrying out the duties required by this section. **If a management**
 35 **agreement is in effect, the manager shall reimburse the auditor of**
 36 **state for actual expenses incurred by the auditor of state in**
 37 **carrying out the duties required by this section.**

38 (c) As used in this section, "debt" means an obligation that is
 39 ~~evidence~~ **evidenced** by an assessment or lien issued by a state agency,
 40 a judgment, or a final order of an administrative agency.

41 SECTION 59. IC 4-30-12-2 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A member
 43 or employee of the commission or a relative living in the same
 44 household with a member or employee of the commission may not
 45 purchase a lottery ticket.

46 **(b) A director, an officer, or an employee of a manager or a**

1 **relative living in the same household with a director, an officer, or**
 2 **an employee of a manager may not purchase a lottery ticket.**

3 SECTION 60. IC 4-30-12-3 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. An officer or
 5 employee of a vendor that:

6 (1) is providing major procurement goods or services to the
 7 commission **or a manager**; or

8 (2) has executed a contract for a major procurement;
 9 or a relative living in the same household with an officer or employee
 10 of the vendor may not purchase a lottery ticket.

11 SECTION 61. IC 4-30-13-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who
 13 knowingly:

14 (1) sells a lottery ticket and is not authorized by the commission,
 15 **a manager**, or this article to engage in such a sale;

16 (2) sells a lottery ticket to a minor; or

17 (3) sells a lottery ticket at a price other than that established by
 18 the commission **or a manager**;

19 commits a Class A misdemeanor.

20 SECTION 62. IC 4-30-14-5 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who
 22 uses point-of-sale material issued by the commission **or a manager** or
 23 otherwise represents that the person is a retailer without being under
 24 contract with the commission **or a manager** to act as a retailer
 25 commits a Class A misdemeanor.

26 SECTION 63. IC 4-30-15.5 IS ADDED TO THE INDIANA CODE
 27 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]:

29 **Chapter 15.5. Management Agreement Trust Fund**

30 **Sec. 1. (a) The management agreement trust fund is established**
 31 **to provide money:**

32 (1) for the transfers required under section 5 of this chapter;
 33 and

34 (2) to pay any amounts required under IC 4-30-21-23.

35 (b) The state lottery commission shall hold, administer, and
 36 manage the fund.

37 (c) The expenses of administering the fund shall be paid from
 38 money in the fund.

39 (d) The fund consists of the following:

40 (1) Money received from a manager under IC 4-30-21.

41 (2) Appropriations, if any, from the general assembly.

42 (3) Grants and gifts intended for deposit in the fund.

43 (4) Interest, premiums, gains, or other earnings on the fund.

44 (e) The state lottery commission shall establish the following
 45 accounts within the fund:

46 (1) The Hoosier hope account.

1 **(2) The management agreement royalty account.**

2 **Sec. 2. Notwithstanding IC 5-13, the state lottery commission**
 3 **shall invest the money in the management agreement trust fund**
 4 **that is not needed to meet the obligations of the fund in the manner**
 5 **provided by an investment policy established by resolution of the**
 6 **commission.**

7 **Sec. 3. The management agreement trust fund is not part of the**
 8 **state treasury and is considered a trust fund for purposes of**
 9 **IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise**
 10 **removed from the fund by the state board of finance, the budget**
 11 **agency, or any other state agency.**

12 **Sec. 4. Money in the management agreement trust fund at the**
 13 **end of a state fiscal year does not revert to the state general fund.**

14 **Sec. 5. (a) Before the last business day of January, April, July,**
 15 **and October, the state lottery commission shall transfer the**
 16 **revenue in the management agreement trust fund as follows:**

17 **(1) Seven million five hundred thousand dollars (\$7,500,000)**
 18 **to be deposited in the pension stabilization fund established**
 19 **under IC 5-10.4-2-5 to be used as a credit against the**
 20 **unfunded accrued liability of the pre-1996 account (as defined**
 21 **in IC 5-10.4-1-12) of the Indiana state teachers' retirement**
 22 **fund.**

23 **(2) Two million five hundred thousand dollars (\$2,500,000) to**
 24 **be deposited in the "k" portion of the pension relief fund**
 25 **established under IC 5-10.3-11.**

26 **(3) Five million dollars (\$5,000,000) to be deposited in the**
 27 **"m" portion of the pension relief fund established under**
 28 **IC 5-10.3-11.**

29 **(4) Thirty-five million dollars (\$35,000,000) to be deposited in**
 30 **the build Indiana fund established under IC 4-30-17.**

31 **(b) To make the transfers required by subsection (a), the**
 32 **commission may transfer money from the Hoosier hope account or**
 33 **the lottery management royalty account, or both, as long as the**
 34 **aggregate amount transferred and the amount transferred to each**
 35 **fund specified in subsection (a) meet the requirements of**
 36 **subsection (a).**

37 **(c) Money remaining in the lottery management agreement trust**
 38 **fund at the end of a state fiscal year exceeding the amount of:**

39 **(1) the transfers required under subsection (a); and**

40 **(2) the payments required under IC 4-30-21-23;**

41 **must be transferred to the Hoosier hope scholarship fund**
 42 **established under IC 21-48-5.**

43 **SECTION 64. IC 4-30-16-1 IS AMENDED TO READ AS**
 44 **FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Subject to the**
 45 **terms of a management agreement, the money in the administrative**
 46 **trust fund shall be used for the following:**

47 **(1) To pay prizes.**

(2) To pay the expenses for the operation of the lottery, including setting aside an amount determined by the commission to be necessary for the cash flow needs of the commission. These expenses include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the lottery, including the following:

(A) The compensation paid to retailers.

(B) The costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, security, bonding for retailers, printing, distribution of tickets, and reimbursing other governmental entities for services provided to the lottery.

(C) The costs of any other goods and services necessary for carrying out this article.

(3) To make transfers of the revenue remaining after making the payments necessary under subdivisions (1) and (2) (referred to as "surplus revenue" in this article) to the treasurer of state for deposit as provided in this chapter.

SECTION 65. IC 4-30-16-3, AS AMENDED BY P.L.2-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Subject to the terms of a management agreement**, the commission shall transfer the surplus revenue in the administrative trust fund as follows:

(1) Before the last business day of January, April, July, and October, the commission shall transfer to the treasurer of state, for deposit in the Indiana state teachers' retirement fund (IC 5-10.4-2), seven million five hundred thousand dollars (\$7,500,000). Notwithstanding any other law, including any appropriations law resulting from a budget bill (as defined in IC 4-12-1-2), the money transferred under this subdivision shall be set aside in the pension stabilization fund (IC 5-10.4-2-5) to be used as a credit against the unfunded accrued liability of the pre-1996 account (as defined in IC 5-10.4-1-12) of the Indiana state teachers' retirement fund. The money transferred is in addition to the appropriation needed to pay benefits for the state fiscal year.

(2) Before the last business day of January, April, July, and October, the commission shall transfer:

(A) two million five hundred thousand dollars (\$2,500,000) of the surplus revenue to the treasurer of state for deposit in the "k" portion of the pension relief fund (IC 5-10.3-11); and

(B) five million dollars (\$5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) **Subject to the terms of a management agreement**, the commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 66. IC 4-30-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This article does not authorize any lottery except the lottery operated **under this article:**

(1) by the commission; ~~under this article;~~ or

(2) **on behalf of the commission by a manager under a management agreement.**

SECTION 67. IC 4-30-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Local governmental authority concerning all matters relating to the operation of a lottery are preempted by the state, and a county, municipality, or other political subdivision of the state may not enact an ordinance relating to the operation of the lottery authorized by this article. However, this section does not prohibit a political subdivision of the state from requiring a retailer to obtain an occupational license for any business unrelated to the sale of lottery tickets.

(b) **A county, municipality, or other political subdivision may not take any action that would have the effect of impairing a management agreement.**

SECTION 68. IC 4-30-19-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **If the commission enters into a management agreement under this article, the manager shall undergo an audit of its annual financial statements under the terms of the management agreement.**

(b) **To assure the integrity of the lottery and compliance with this article and the management agreement, the commission may require, at any time, a special audit of a manager to be conducted by an independent certified public accountant licensed in Indiana. The scope, procedures, and reporting requirements of the audit must be set forth in the management agreement.**

(c) **An audit required by this section must be prepared at the expense of the manager.**

SECTION 69. IC 4-30-20 IS ADDED TO THE INDIANA CODE

1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]:

3 **Chapter 20. Lottery Manager**

4 **Sec. 1.** The legislative intent for this chapter is to provide a
5 means for the formation of an entity to serve as a manager of the
6 lottery under a management agreement authorized under this
7 article.

8 **Sec. 2.** The purpose of an entity formed under this chapter is
9 limited to:

10 (1) entering into and performing a management agreement
11 under this article; and

12 (2) the activities incidental or related to the accomplishment
13 of the purposes permitted under subdivision (1).

14 **Sec. 3. (a)** One (1) or more persons may form an entity to serve
15 as a manager by filing articles of incorporation with the secretary
16 of state under IC 23-1. An entity formed under this subsection has
17 the powers and privileges of other corporations, except where
18 inconsistent with the text and purpose of this chapter. IC 23-1
19 applies to an entity formed under this subsection to the extent the
20 provisions do not conflict with this chapter.

21 **(b)** One (1) or more persons may form an entity to serve as a
22 manager by filing articles of organization with the secretary of
23 state under IC 23-18. An entity formed under this subsection has
24 the powers and privileges of other limited liability companies and
25 is subject to the duties, restrictions, and liabilities of other limited
26 liability companies, except where inconsistent with the text and
27 purpose of this chapter. IC 23-18 applies to an entity formed under
28 this subsection to the extent the provisions do not conflict with this
29 chapter.

30 SECTION 70. IC 4-30-21 IS ADDED TO THE INDIANA CODE
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]:

33 **Chapter 21. Lottery Management Agreement**

34 **Sec. 1.** In construing this chapter, it is the intent of the general
35 assembly that the manager be accountable to the general assembly
36 and the people of Indiana through a system of audits and reports
37 and by complying with the financial disclosure requirements of this
38 chapter. The powers conferred by this chapter are in addition and
39 supplemental to the powers conferred by any other law. If any
40 other law or rule is inconsistent with this chapter, this chapter is
41 controlling as to any management agreement entered into under
42 this chapter.

43 **Sec. 2.** This chapter contains full and complete authority for a
44 management agreement between the contracting agencies and an
45 entity formed under IC 4-30-20. Except as provided in this chapter,
46 no law, procedure, proceeding, publication, notice, consent,
47 approval, order, or act by the contracting agencies or any other

officer, department, agency, or instrumentality of the state or any political subdivision is required for the contracting agencies to enter into a management agreement under this article.

Sec. 3. As used in this chapter, "authority" means the Indiana finance authority established under IC 4-4-11.

Sec. 4. As used in this chapter, "contracting agencies" means the commission, the gaming commission, and the authority.

Sec. 5. As used in this chapter, "control" means the power to exercise authority over or to direct the management and policies of an individual, a business, or any other entity.

Sec. 6. As used in this chapter, "financial statement" means any of the following:

- (1) Balance sheet.
- (2) Income statement.
- (3) Profit and loss statement.
- (4) Statement of cash flow.
- (5) Sources and uses of funds statements.
- (6) Notes to financial statements.

Sec. 7. As used in this chapter, "offeror" means a person that responds to a request for qualifications under this chapter.

Sec. 8. As used in this chapter, "request for qualifications" means all materials and documents prepared by the commission or the authority on behalf of the commission to solicit the following from offerors:

- (1) statements of qualifications; and
- (2) proposals to enter into a management agreement.

Sec. 9. As used in this chapter, "selected offer" refers to the final offer of an offeror that is the preliminary selection of the authority to be the manager for the lottery under section 19 of this chapter.

Sec. 10. Subject to the other provisions of this chapter, the contracting agencies may enter into a management agreement with a manager for an initial term not to exceed thirty (30) years.

Sec. 11. The contracting parties may not enter into a management agreement that authorizes a manager to operate any of the following games or a game simulating any of the following games:

- (1) Keno.
- (2) Video lottery games.
- (3) Pari-mutuel wagering on horse or dog racing.
- (4) A game in which winners are selected on the results of a race or sporting event.
- (5) Any other game commonly considered to be a form of gambling that is not:

- (A) a game; or
- (B) a variation of a game;

that the commission has the authority to approve under this article.

1 **Sec. 12. (a) The management agreement must establish a**
 2 **benchmark amount of at least one billion dollars (\$1,000,000,000)**
 3 **for deposit in the Hoosier hope trust fund established by**
 4 **IC 21-48-6-1 and the world class scholars fund established by**
 5 **IC 21-49-6-1. The management agreement must require the**
 6 **manager to make an initial payment to the treasurer of state on the**
 7 **effective date of the management agreement in an amount that**
 8 **exceeds the benchmark amount established in the management**
 9 **agreement.**

10 **(b) The treasurer of state shall deposit the initial payment**
 11 **required under subsection (a) as follows:**

12 **(1) An amount equal to sixty percent (60%) of the benchmark**
 13 **amount must be deposited in the Hoosier hope trust fund**
 14 **established by IC 21-48-6-1.**

15 **(2) An amount equal to forty percent (40%) of the benchmark**
 16 **amount must be deposited in the world class scholars fund**
 17 **established by IC 21-49-6-1.**

18 **(3) The remainder of the initial payment, if any, must be**
 19 **deposited in the Hoosier hope account of the management**
 20 **agreement trust fund established by IC 4-30-15.5-1.**

21 **Sec. 13. The management agreement must require the manager**
 22 **to pay a royalty to the treasurer of state four (4) times each year**
 23 **beginning on a date specified in the management agreement. The**
 24 **method for determining the amount of the royalty paid under this**
 25 **section shall be established in the management agreement and shall**
 26 **provide sufficient revenue to permit the state lottery commission**
 27 **to make the transfers required under IC 4-30-15.5-5. The treasurer**
 28 **of state shall deposit the payments received under this section in**
 29 **the management agreement royalty account established under**
 30 **IC 4-30-15.5-1.**

31 **Sec. 14. A management agreement must address the following:**

32 **(1) The original term of the management agreement.**

33 **(2) A requirement that the manager be formed under**
 34 **IC 4-30-20.**

35 **(3) A requirement that the manager locate its principal office**
 36 **within Indiana.**

37 **(4) The transition of rights and obligations from the**
 38 **commission to the manager with respect to the operation of**
 39 **the lottery, including:**

40 **(A) the right to use, or ownership of, equipment and other**
 41 **assets used in the operation of the lottery; and**

42 **(B) the rights and obligations under contracts with**
 43 **retailers and vendors.**

44 **(5) The implementation of a comprehensive security program**
 45 **by the manager.**

46 **(6) The implementation of a comprehensive system of internal**
 47 **audits.**

(7) The implementation of a program by the manager to curb compulsive gambling by persons playing the lottery.

(8) A system for determining the following:

(A) The type of lottery games to be conducted.

(B) The method of selecting winning tickets.

(C) The manner of payment of prizes to holders of winning tickets.

(D) The frequency of drawings of winning tickets.

(E) The method to be used in selling tickets.

(9) A system for verifying the validity of tickets claimed to be winning tickets.

(10) The basis upon which retailer fees are established by the manager.

(11) Minimum payouts.

(12) A requirement that advertising and promotion be consistent with the dignity and integrity of the state.

(13) The establishment of a code of ethics for officers and employees of the manager.

(14) Monitoring of the manager's practices by the commission and the taking of actions by the commission that it considers appropriate to ensure that the manager is in compliance with the terms of the management agreement.

(15) The requirement that the manager periodically file appropriate financial statements in a form and manner acceptable to the commission.

(16) Cash reserve requirements.

(17) Procedural requirements for obtaining approval by the commission when a management agreement, or an interest in a management agreement, is sold, assigned, or otherwise transferred, or pledged as collateral to secure financing.

(18) Grounds for termination of the management agreement by the commission or a manager.

(19) Procedures for amendment of the management agreement.

(20) A provision prohibiting the contracting agencies from entering into another management agreement under this article as long as the management agreement has not been terminated.

(21) The transition of rights and obligations, including any associated equipment or other assets used in the operation of the lottery, from the manager to any successor manager of the lottery, including the commission, following the termination of or foreclosure upon the management agreement.

(22) Ownership of all copyrights, trademarks, and service marks by the commission in the name of the state.

Sec. 15. (a) A manager shall undergo a complete investigation every three (3) years by the commission to determine that the

1 manager remains in compliance with this article and the
2 management agreement.

3 (b) The manager shall bear the cost of an investigation or
4 reinvestigation of the manager.

5 Sec. 16. (a) Before the contracting agencies enter into a
6 management agreement under this chapter, a request for
7 qualifications must be issued as set forth in this chapter. A request
8 for qualifications for a management agreement may be issued in
9 one (1) or more phases.

10 (b) A request for qualifications must include the following:

11 (1) The factors or criteria that will be used in evaluating an
12 offeror's statement of qualifications and proposal.

13 (2) A statement that a proposal must be accompanied by
14 evidence of the offeror's financial responsibility.

15 (3) A statement concerning whether discussions may be
16 conducted with the offerors for the purpose of clarification to
17 assure full understanding of and responsiveness to the
18 solicitation requirements.

19 (4) A statement concerning any other information to be
20 considered in evaluating the offeror's qualifications and
21 proposal.

22 (5) A statement that, except as otherwise required by law or
23 under order from a court with jurisdiction, the contents of an
24 offeror's response to a request for qualifications shall not be
25 disclosed during:

26 (A) discussions; or

27 (B) negotiations;

28 with offerors to other offerors.

29 (c) Notice of a request for qualifications shall be published two
30 (2) times in accordance with IC 5-3-1 at least one (1) week apart,
31 with the second publication made at least seven (7) days before any
32 initial submission is due.

33 (d) As provided in a request for qualifications, discussions may
34 be conducted with the offerors for the purpose of clarification to
35 assure full understanding of and responsiveness to the solicitation
36 requirements.

37 (e) Eligible offerors must be accorded fair and equal treatment
38 with respect to any opportunity for discussion and revision of
39 proposals.

40 Sec. 17. (a) The authority may not disclose the contents of
41 proposals during discussions or negotiations with eligible offerors.

42 (b) The authority may, in its discretion in accordance with
43 IC 5-14-3, treat as confidential all records relating to discussions
44 or negotiations between the authority and eligible offerors if those
45 records are created while discussions or negotiations are in
46 progress.

47 (c) Notwithstanding subsections (a) and (b), and with the

1 exception of parts that are confidential under IC 5-14-3, the terms
 2 of the selected offer negotiated under this article shall be available
 3 for inspection and copying under IC 5-14-3 after negotiations with
 4 the offerors have been completed.

5 (d) When disclosing the terms of the selected offer under
 6 subsection (c), the authority shall certify that the information being
 7 disclosed accurately and completely represents the terms of the
 8 selected offer.

9 (e) The authority shall disclose the contents of all proposals,
 10 except the parts of any proposal that may be treated as confidential
 11 in accordance with IC 5-14-3, when either:

12 (1) the request for qualifications process is terminated under
 13 section 19 of this chapter; or

14 (2) the management agreement has been executed and the
 15 closing for each financing transaction required to provide
 16 funding to carry out the management agreement has been
 17 conducted.

18 Sec. 18. (a) The authority may negotiate with one (1) or more
 19 offerors who the authority determines are responsible and
 20 reasonably capable of managing the lottery and may seek to obtain
 21 a final offer from one (1) or more of those offerors.

22 (b) The authority shall consider the following among the factors
 23 in making a determination under this section:

24 (1) The offeror's expertise, qualifications, competence, skills,
 25 and plan to perform its obligations under the management
 26 agreement in accordance with the management agreement.

27 (2) The financial strength of the responsible offeror, including
 28 its capitalization and available financial resources.

29 (3) The experience of the offeror in operating government
 30 authorized lotteries and gaming and other similar projects
 31 and the quality of the offeror's past or present performance
 32 on other similar or equivalent engagements.

33 (4) The integrity, background, and reputation of the offeror.

34 (c) The requirements set forth in subsection (b) also apply to the
 35 approval of any successor manager.

36 Sec. 19. (a) After the final offers from offerors have been
 37 negotiated under section 18 of this chapter, the authority shall, on
 38 behalf of the commission:

39 (1) make a preliminary selection of an offeror as a manager
 40 for the lottery; or

41 (2) terminate the request for qualifications process.

42 (b) If the authority makes a preliminary selection of a manager
 43 under this section, the commission shall schedule a public hearing
 44 on the preliminary selection and publish notice of the hearing one
 45 (1) time in accordance with IC 5-3-1 at least seven (7) days before
 46 the hearing. The notice must include the following:

47 (1) The date, time, and place of the hearing.

1 (2) The subject matter of the hearing.

2 (3) A brief description of the management agreement to be
3 awarded.

4 (4) The identity of the offeror that has been preliminarily
5 selected as a manager.

6 (5) The address and telephone number of the commission.

7 (6) A statement indicating that, subject to section 17 of this
8 chapter, and except for those parts that are confidential under
9 IC 5-14-3, the selected offer and an explanation of the basis
10 upon which the preliminary selection was made are available
11 for public inspection and copying at the principal office of the
12 commission during regular business hours.

13 (c) Subject to section 17 of this chapter, and except for those
14 parts that are confidential under IC 5-14-3, the selected offer and
15 a written explanation of the basis upon which the preliminary
16 selection was made shall be made available for inspection and
17 copying in accordance with IC 5-14-3 at least seven (7) days before
18 the hearing scheduled under this subsection.

19 (d) At the hearing, the commission shall allow the public to be
20 heard on the preliminary selection.

21 Sec. 20. (a) After the hearing required under section 19 of this
22 chapter, the commission shall determine if a management
23 agreement should be entered with the offeror that submitted the
24 selected offer. If the commission makes a favorable determination,
25 the commission shall submit the determination to the governor and
26 the budget committee.

27 (b) After review of the commission's determination by the
28 budget committee, the governor may accept or reject the
29 determination of the commission. If the governor accepts the
30 commission's determination, the governor shall designate the
31 offeror who submitted the selected offer as a manager for the
32 lottery. The commission shall publish notice of the designation of
33 a manager for the lottery one (1) time in accordance with IC 5-3-1.

34 (c) After the governor designates a manager, the contracting
35 agencies may execute a management agreement with the
36 designated manager.

37 Sec. 21. A manager may finance its obligations with respect to
38 the lottery and the management agreement in the amounts and
39 upon the terms and conditions determined by the manager.
40 However, any bonds, debt, other securities, or other financing
41 issued for the purposes of this section shall not be considered to
42 constitute a debt of the state or any political subdivision of the state
43 or a pledge of the faith and credit of the state or any political
44 subdivision of the state.

45 Sec. 22. An action to contest the validity of a management
46 agreement entered into under this chapter:

47 (1) may not be brought after the fifteenth day following the

1 publication of the notice of the designation of a manager
2 under the management agreement as provided in section 20
3 of this chapter; and

4 (2) is governed by IC 34-13-5.

5 Sec. 23. (a) A contracting agency may exercise any powers
6 provided under this chapter in participation or cooperation with
7 another contracting agency or any other governmental entity and
8 enter into any contracts to facilitate that participation or
9 cooperation without compliance with any other statute.

10 (b) A contracting agency may make and enter into all contracts
11 and agreements necessary or incidental to the performance of the
12 contracting agency's duties under this chapter and the execution of
13 the contracting agency's powers under this article. These contracts
14 or agreements are not subject to any approvals other than the
15 approval of the contracting agency that enters into the contract or
16 agreement, and may be for any term of years and contain any
17 terms that are considered reasonable by the contracting agency.

18 (c) A contracting agency and any state agency may make and
19 enter into all contracts and agreements necessary or incidental to
20 the performance of the duties and the execution of the powers
21 granted to the contracting agency or the state agency in
22 accordance with this chapter or the management agreement. These
23 contracts or agreements are not subject to any approvals other
24 than the approval of the contracting agency or the state agency
25 that enters into the contract or agreement, and may be for any
26 term of years and contain any terms that are considered
27 reasonable by the contracting agency or the state agency.

28 (d) The commission may pay any amounts owed by the
29 commission under a management agreement entered into under
30 this chapter from any funds available to the commission under this
31 chapter or any other statute.

32 (e) The commission may borrow money from the authority to
33 pay any amounts owed under this section or to reimburse funds
34 made available under this section. The loan agreement or financing
35 agreement must plainly state that it is not an indebtedness of the
36 state but constitutes a corporate obligation solely of the state
37 lottery commission and is payable solely from revenues of the state
38 lottery commission, including money in the management
39 agreement trust fund established by IC 4-30-15.5-1, the proceeds
40 of future loan agreements or other financing agreements, or an
41 appropriation from the general assembly that might be made to the
42 state lottery commission for that purpose.

43 (f) Subject to review by the budget committee and approval by
44 the budget director, a management agreement, a loan agreement,
45 or any other financing agreement entered into under this chapter
46 may:

47 (1) establish a procedure for the commission or a person

1 acting on behalf of the commission to certify to the general
 2 assembly the amount needed to pay any amounts owed by the
 3 commission under the management agreement, the loan
 4 agreement, or any other financing agreement under this
 5 chapter; or

6 (2) create a moral obligation of the state to pay any amounts
 7 owed by the commission under the management agreement,
 8 the loan agreement, or any other financing agreement under
 9 this chapter.

10 **Sec. 24.** The authority may exercise any of its powers under
 11 IC 4-4-11 or any other law as necessary or desirable for the
 12 execution of the authority's powers under this chapter.
 13 Notwithstanding any provisions in IC 4-4-10.9 or IC 4-4-11, the
 14 authority may issue bonds under IC 4-4-11 or any other statute to
 15 make a loan to the commission for:

16 (1) any amounts owed by the commission; or

17 (2) funds made available by the commission;

18 under this chapter.

19 **Sec. 25. (a)** The general assembly finds that it is in the interest
 20 of the state of Indiana and the bodies corporate and politic
 21 established by state law that the general assembly provide means
 22 from time to time to fund and finance payment and reimbursement
 23 obligations under contracts and other agreements, including a
 24 management agreement, loan agreements, and other financing
 25 agreements under this chapter.

26 (b) In addition to its other purposes, the authority shall exist
 27 and operate for the purpose of providing means to finance payment
 28 and reimbursement obligations under management agreements,
 29 loan agreements, and other financing agreements under this
 30 chapter.

31 **SECTION 71.** IC 6-3-2-21 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: **Sec. 21. (a)** As used in this section, "recipient"
 34 has the meaning set forth in IC 21-48-2-13.

35 (b) As used in this section, "Hoosier hope grant" has the
 36 meaning set forth in IC 21-48-2-8.

37 (c) The amount of a recipient's obligation to repay a Hoosier
 38 hope grant that is deferred or waived in a particular taxable year
 39 under IC 21-48-4 is exempt from the adjusted gross income tax
 40 imposed by IC 6-3-1 through IC 6-3-7 as income of the recipient.

41 **SECTION 72.** IC 21-48 IS ADDED TO THE INDIANA CODE AS
 42 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
 43 PASSAGE]:

44 **ARTICLE 48. HOOSIER HOPE SCHOLARSHIP**

45 **Chapter 1. Legislative Findings**

46 **Sec. 1.** The general assembly finds the following:

47 (1) Forty-five percent (45%) of all students graduating from

a public college or university in Indiana with a postsecondary degree leave Indiana upon graduation.

(2) Indiana ranks forty-fourth among all states for its share of residents at least twenty-five (25) years of age who have a baccalaureate degree.

(3) As current workers reach retirement age and Indiana's economy continues to change to meet the demands of the twenty-first century, Indiana employers will need an increasing number of highly educated workers.

(4) A scholarship program that encourages outstanding students to pursue higher education opportunities within this state and to enter this state's workforce in their chosen field of study upon graduation will improve the overall quality of life for all Indiana residents and stimulate economic growth in this state.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Academic year" has the meaning set forth in IC 21-12-1-3.

Sec. 3. "Applicant" means a student in grade twelve (12) who applies for acceptance into the Hoosier hope scholars program.

Sec. 4. "Commission" means the state student assistance commission established by IC 21-11-2-1.

Sec. 5. "Eligible institution of higher learning" means:

(1) a state educational institution (as defined in IC 21-7-13-32); or

(2) a private college or university (as defined in IC 21-7-13-10).

Sec. 6. "Full-time student" means an individual enrolled in an eligible institution of higher learning for at least twelve (12) semester credit hours in each enrollment period of an academic year at a semester based institution, or an equivalent number of hours at an institution using a different grading period.

Sec. 7. "Fund" means the Hoosier hope scholarship fund established by IC 21-48-5-1.

Sec. 8. "Hoosier hope grant" means the amount of financial assistance awarded under IC 21-48-3 to a recipient in an academic year.

Sec. 9. "Hoosier hope scholar" means an applicant who has been accepted into the Hoosier hope scholars program under IC 21-48-3.

Sec. 10. "Management agreement" has the meaning set forth in IC 4-30-2-5.3.

Sec. 11. "Manager" has the meaning set forth in IC 4-30-2-5.5.

Sec. 12. "Qualified employment" means full-time employment within Indiana as determined under criteria developed by the commission.

1 **Sec. 13. "Recipient" means a Hoosier hope scholar who is**
 2 **awarded a Hoosier hope grant under IC 21-48-3.**

3 **Sec. 14. "Trust" means the Hoosier hope trust fund established**
 4 **under IC 21-48-6.**

5 **Sec. 15. "Trustee" means a trustee of the Hoosier hope trust**
 6 **fund.**

7 **Chapter 3. Hoosier Hope Scholars Program**

8 **Sec. 1. The Hoosier hope scholars program is established.**

9 **Sec. 2. (a) To be accepted into the Hoosier hope scholars**
 10 **program, an applicant must:**

11 (1) be a resident of Indiana as determined by the commission;

12 (2) be enrolled in grade twelve (12) or its equivalent at:

13 (A) a public or nonpublic accredited school in Indiana; or

14 (B) a nonaccredited nonpublic school in Indiana;

15 (3) qualify as an outstanding scholar under the criteria
 16 established by the commission;

17 (4) intend to pursue a course of study at an eligible institution
 18 of higher learning that will lead to a baccalaureate or
 19 associate degree;

20 (5) intend to reside in Indiana and maintain qualified
 21 employment for at least three (3) years following the
 22 attainment of a baccalaureate or associate degree; and

23 (6) fulfill any other requirements established by the
 24 commission.

25 (b) The commission shall establish criteria for determining
 26 whether an applicant is an outstanding scholar. The criteria must
 27 include:

28 (1) SAT or ACT scores; and

29 (2) cumulative high school grade point averages.

30 (c) The commission shall develop criteria governing the
 31 acceptance of applicants who are enrolled in a nonaccredited
 32 nonpublic school in Indiana.

33 **Sec. 3. (a) A Hoosier hope scholar is eligible to receive an initial**
 34 **Hoosier hope grant in an amount determined under section 5 of**
 35 **this chapter if the student:**

36 (1) enrolls as a full-time student in a baccalaureate or
 37 associate degree program at an eligible institution of higher
 38 learning in the academic year immediately following the
 39 scholar's high school graduation; and

40 (2) agrees in writing to reside in Indiana and maintain
 41 qualified employment for at least three (3) years following the
 42 attainment of a baccalaureate or associate degree.

43 (b) A Hoosier hope scholar who does not enroll at an eligible
 44 institution of higher learning in the academic year immediately
 45 following the scholar's high school graduation may be granted a
 46 deferral by the commission for up to two (2) academic years. The
 47 commission shall develop criteria for granting deferrals under this

1 subsection.

2 **Sec. 4. A Hoosier hope grant must be renewed each academic**
 3 **year under procedures developed by the commission. To qualify**
 4 **for a grant renewal under this section, a recipient must:**

5 **(1) remain enrolled as a full-time student in a baccalaureate**
 6 **or associate degree program at an eligible institution of higher**
 7 **learning; and**

8 **(2) maintain a cumulative grade point average of:**

9 **(A) at least 3.0 on a 4.0 grading scale; or**

10 **(B) an equivalent average as determined by the recipient's**
 11 **eligible institution of higher learning.**

12 **Sec. 5. (a) The commission shall determine the amount of each**
 13 **grant awarded under this chapter.**

14 **(b) Subject to section 9 of this chapter, a Hoosier hope scholar**
 15 **enrolled in an associate degree program at an eligible institution of**
 16 **higher learning may be awarded a grant in the amount of two**
 17 **thousand five hundred dollars (\$2,500) per academic year in not**
 18 **more than two (2) consecutive academic years.**

19 **(c) Subject to section 9 of this chapter, a Hoosier hope scholar**
 20 **enrolled in a baccalaureate degree program at an eligible**
 21 **institution of higher learning may be awarded a grant in the**
 22 **amount of five thousand dollars (\$5,000) per academic year in not**
 23 **more than four (4) consecutive academic years.**

24 **(d) Subject to section 9 of this chapter and subsection (e), a**
 25 **Hoosier hope scholar who:**

26 **(1) completes or transfers from an associate degree program**
 27 **at an eligible institution of higher learning; and**

28 **(2) enrolls in a baccalaureate degree program during the next**
 29 **academic year at an eligible institution of higher learning;**

30 **may be awarded up to five thousand dollars (\$5,000) per academic**
 31 **year for two (2) consecutive years that the scholar is enrolled in the**
 32 **baccalaureate degree program and eligible to renew a grant under**
 33 **this chapter.**

34 **(e) The total amount of the grants awarded to a Hoosier hope**
 35 **scholar under this chapter may not exceed twenty thousand dollars**
 36 **(\$20,000).**

37 **Sec. 6. A Hoosier hope grant may be used by a recipient at any**
 38 **eligible institution of higher learning to defray any qualified higher**
 39 **education expenses (as defined in IC 21-9-2-19.5).**

40 **Sec. 7. (a) The amount of a Hoosier hope grant may not be**
 41 **reduced because a recipient receives other scholarships or forms**
 42 **of financial aid.**

43 **(b) The amount of any other state financial aid received by a**
 44 **recipient may not be reduced because the recipient receives a**
 45 **Hoosier hope grant.**

46 **Sec. 8. (a) The commission shall determine the number of**
 47 **Hoosier hope grants available in an academic year based on the**

1 amount of money available in the fund.

2 (b) Hoosier hope grants shall be awarded on a competitive basis.
3 Subject to subsection (c), priority shall be given to grant renewals
4 under section 4 of this chapter if the number of scholarship
5 applicants exceeds the number of available grants.

6 (c) Each academic year, the commission shall reserve at least
7 twenty percent (20%) of the available grants for applicants
8 enrolling in an associate degree program at an eligible institution
9 of higher learning. The number of grants reserved under this
10 subsection shall be determined by the commission.

11 Sec. 9. The commission may from time to time adjust the
12 amounts awarded under section 5 of this chapter to reflect
13 increased tuition costs at state educational institutions.

14 Chapter 4. Employment Requirements

15 Sec. 1. (a) A recipient shall repay the commission the total
16 amount of the grants received under this article if the recipient
17 does not:

18 (1) complete the specified associate or baccalaureate degree
19 within the time allotted for completing the degree program by
20 the eligible institution of higher learning attended by the
21 recipient; or

22 (2) except as provided in section 2 of this chapter, reside in
23 Indiana and maintain qualified employment for at least three
24 (3) consecutive years following the calendar year in which the
25 recipient attained the specified associate or baccalaureate
26 degree.

27 (b) Except as otherwise provided in this chapter, repayment
28 shall be made to the commission within ten (10) years after the
29 repayment period begins and shall follow a repayment schedule
30 established by the commission.

31 (c) For purposes of this chapter, the repayment period begins
32 when a recipient:

33 (1) is no longer enrolled in a degree program at an eligible
34 institution of higher learning and has not attained an associate
35 or a baccalaureate degree;

36 (2) has attained an associate or a baccalaureate degree but has
37 not made a good faith effort to comply with the recipient's
38 written commitment to reside in Indiana and maintain
39 qualified employment for at least three (3) consecutive years
40 following the calendar year in which the recipient attained the
41 specified associate or baccalaureate degree; or

42 (3) has been granted a deferment from the repayment
43 obligation by the commission and has not made a good faith
44 effort to comply with the recipient's written commitment to
45 reside in Indiana and maintain qualified employment upon
46 the termination of the deferral period.

47 Sec. 2. (a) The commission may waive or defer repayment in the

event of disability, illness, or other extenuating circumstances, as determined by the commission, that prevent the recipient from fulfilling the employment requirements under this article.

(b) The commission shall grant a deferment from repayment to:

(1) a recipient who is assigned military duty outside Indiana;
or

(2) a recipient whose spouse is assigned military duty outside Indiana.

(c) In determining the length of a deferment period granted under this section, the commission shall consider each recipient's individual circumstances and ability to comply with the recipient's written commitment. Deferments shall be granted in twelve (12) month increments but may not exceed a total of sixty (60) consecutive months.

Sec. 3. The commission may prorate the amount of repayment required under this chapter if the recipient has attained an associate or a baccalaureate degree and has maintained qualified employment for at least one (1) year following the calendar year in which the recipient attained the specified associate or baccalaureate degree.

Sec. 4. As provided in IC 6-3-2-21, the amount of a repayment that is waived or deferred under this chapter is exempt from taxation under IC 6-3-1 through IC 6-3-7.

Chapter 5. Hoosier Hope Scholarship Fund

Sec. 1. (a) The Hoosier hope scholarship fund is established to provide grants to applicants who qualify under this article.

(b) The commission shall hold, administer, and manage the fund.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

(1) Amounts transferred to the fund under IC 21-48-6.

(2) Appropriations by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(e) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any state agency other than the commission.

(f) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to the commission to be used to award grants under this article.

Sec. 2. Money in the fund is continuously appropriated to the commission for the purposes of this article.

Chapter 6. Hoosier Hope Trust Fund

Sec. 1. (a) The commission shall establish a Hoosier hope trust

1 fund to be used for the provision of Hoosier hope grants for the
2 benefit of the people of Indiana.

3 (b) The trust shall be established as a charitable trust for the
4 benevolent public purpose provided in this section.

5 (c) The trust consists of money received from a manager under
6 IC 4-30-21-12 and any income that accrues from the investment of
7 that money.

8 Sec. 2. The chairman of the authority shall enter into a trust
9 agreement on behalf of the authority with the treasurer of state in
10 conformity with IC 30-4-2-1. Any provision of the trust agreement
11 entered into under this section that is inconsistent with the
12 provisions or intent of this chapter is void and of no further force
13 or effect.

14 Sec. 3. A trust established under this chapter must be an
15 irrevocable trust and may not be revoked or terminated by the
16 authority or any other person, nor may it be amended or altered by
17 the authority or any other person. However, the terms of the trust
18 must provide that the trust terminates when no funds remain in the
19 trust.

20 Sec. 4. The treasurer of state shall act as the trustee of the trust.

21 Sec. 5. (a) The trustee shall:

22 (1) administer and manage the trust;

23 (2) invest the money in the trust; and

24 (3) deposit in the trust any interest that accrues from the
25 investment of these funds.

26 (b) Notwithstanding IC 5-13, the trustee shall invest the money
27 in the trust not currently needed to meet the obligations of the trust
28 in the same manner as money is invested by the public employees'
29 retirement fund under IC 5-10.3-5. However, the trustee may not
30 invest the money in the trust in equity securities. The trustee shall
31 also comply with the prudent investor rule set forth in IC 30-4-3.5.
32 The trustee may contract with investment management
33 professionals, investment advisors, and legal counsel to assist in the
34 investment of the trust and may pay the state expenses incurred
35 under those contracts from the trust.

36 (c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust
37 established under this chapter.

38 (d) Money in the trust at the end of a state fiscal year does not
39 revert to the state general fund.

40 Sec. 6. IC 30-4 (trust code) applies to a trust established under
41 this chapter.

42 Sec. 7. (a) The principal of the trust may not be diminished
43 during the term of the trust.

44 (b) The income that accrues from investment of the trust shall
45 be deposited in the trust.

46 (c) On July 1, 2008, and on July 1 each year thereafter, the
47 treasurer of state shall transfer all interest, premiums, gains, or

1 other earnings accruing to the trust during the preceding state
2 fiscal year to the Hoosier hope scholarship fund.

3 **Sec. 8.** The statement required under IC 30-4-5-12 is a public
4 record. The attorney general may petition for an accounting as
5 permitted by IC 30-4-5-12.

6 **Sec. 9. (a)** This section applies if a person does any of the
7 following with respect to a trust created under this chapter:

8 (1) Commits a breach of the trust.

9 (2) Violates the mandate of the trust or trust agreement.

10 (3) Violates a duty imposed by this chapter, the trust
11 agreement, or IC 30-4.

12 (b) The attorney general may petition a court to impose one (1)
13 or more of the remedies described in IC 30-4-5.5-1.

14 **Sec. 10.** Any records, files, or documents relating to the trust
15 may be examined by the state board of accounts at a time selected
16 by the state board of accounts. The trustee shall upon request of
17 the state board of accounts:

18 (1) produce and submit any records, files, or documents
19 related to the trust; and

20 (2) assist in every way the state board of accounts in its work
21 in making an examination.

22 **SECTION 73.** IC 21-49 IS ADDED TO THE INDIANA CODE AS
23 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
24 PASSAGE]:

25 **ARTICLE 49. WORLD CLASS SCHOLARS**

26 **Chapter 1. Legislative Findings**

27 **Sec. 1.** The general assembly finds the following:

28 (1) Indiana's colleges and universities must increasingly
29 compete with higher education institutions in other states and
30 countries to attract the best faculty researchers whose
31 innovations are critical to the creation of high paying jobs and
32 fast growing businesses.

33 (2) Indiana is home to great research universities and
34 industries that are highly research and development intensive.

35 (3) Indiana does not attract federal research and development
36 funds commensurate with the state's share of national
37 population or economic activity.

38 (4) Indiana's universities lack sufficient matching dollars from
39 local sources at a time when federal research and
40 development spending is increasingly predicated on local
41 matching from state, university, business, and foundation
42 sources.

43 (5) Providing challenge grants to state institutions of higher
44 learning to support the recruitment and retention of world
45 class scholars to Indiana will accelerate Indiana's growth and
46 attract a greater share of federal research and development
47 dollars.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Applicant" means a state educational institution that submits an application for a grant from the fund.

Sec. 3. "Board" means the world class scholars fund board established by IC 21-49-4-1.

Sec. 4. "Challenge grant" means a world class scholars grant awarded to a state educational institution under IC 21-49-5.

Sec. 5. "Commission" means the commission for higher education established under IC 21-18-2.

Sec. 6. "Fund" refers to the world class scholars fund established by IC 21-49-6-1.

Sec. 7. "High technology business" means a business engaged in any of the following:

- (1) Advanced computing.**
- (2) Biotechnology.**
- (3) Creation of advanced materials.**
- (4) Electronic device technology.**
- (5) Environmental technology.**
- (6) Medical device technology.**

Sec. 8. "Management agreement" has the meaning set forth in IC 4-30-2-5.3.

Sec. 9. "Manager" has the meaning set forth in IC 4-30-2-5.5.

Sec. 10. "Private college or university" has the meaning set forth in IC 21-7-13-10.

Sec. 11. "State institution of higher education" means a state educational institution (as defined by IC 21-7-13-32) that offers a four (4) year baccalaureate degree.

Sec. 12. "World class scholar" means a principal researcher/investigator or distinguished faculty member of national or international renown who has high academic credentials, demonstrated competence, and experience that meet the criteria established by the board.

Chapter 3. World Class Scholars Program

Sec. 1. The world class scholars program is established to accelerate Indiana's growth by doing the following:

- (1) Providing challenge grants to state institutions of higher education to support the recruitment and retention of world class scholars in Indiana.**
- (2) Providing a source of funding to state educational institutions to establish or enhance research facilities to support scholars and researchers in areas that align with Indiana's statewide economic development strategies.**
- (3) Increasing the capacity of state institutions of higher education to compete successfully for federal or private research and development funding.**

(4) Establishing Indiana as a leading state for scholarship and innovation with an expanding base of research and development.

(5) Facilitating joint efforts and collaborative investments among Indiana's state institutions of higher education, private colleges and universities, private industry, and government.

Chapter 4. World Class Scholars Fund Board

Sec. 1. (a) The world class scholars fund board is established to:

(1) receive, review, and recommend applications for challenge grants under this article; and

(2) develop a ten (10) year plan to distribute the corpus and income of the fund to award challenge grants under this article.

(b) The board is composed of the following ten (10) members:

(1) The governor or the governor's designee.

(2) Nine (9) individuals appointed by the governor.

(c) Members appointed under subsection (b)(2) must include the following:

(1) At least two (2) members with research expertise in science, technology, or engineering who are not affiliated in a professional capacity with an Indiana institution of higher learning.

(2) At least one (1) member with expertise in the arts or humanities who is not affiliated in a professional capacity with an Indiana institution of higher learning.

(3) At least one (1) member representing a high technology business.

(4) At least one (1) member representing a business with high research and development expenditures in Indiana.

(5) At least one (1) member with expertise in economic development.

(6) At least one (1) member with expertise in academic research, technology transfer, or collaborative relationships between the public and private sectors.

(d) The governor or the governor's designee shall serve as the chairperson of the board.

Sec. 2. (a) The term of office of a member appointed to the board under section 1(b)(2) of this chapter is two (2) years.

(b) Each member holds office for the term of appointment and continues to serve after the expiration of the term until a successor is appointed and qualified. A member is eligible for reappointment.

(c) A member appointed under section 1(b)(2) of this chapter serves at the pleasure of the governor.

Sec. 3. A member of the board may receive a per diem allowance and reimbursement of the member's expenses for serving on the board.

Sec. 4. (a) Six (6) members constitute a quorum for the

1 transaction of business. The affirmative vote of at least six (6)
2 members is necessary for action to be taken by the board.

3 (b) A board member with a conflict of interest with respect to
4 an application for a grant from the fund shall abstain from any
5 discussion, consideration, or vote on the application.

6 Sec. 5. Meetings of the board shall be held at the call of the
7 chairperson.

8 Sec. 6. The commission shall provide staff support for the board.

9 Sec. 7. The board may use money in the fund to pay
10 administrative expenses incurred by the board under this article.

11 Chapter 5. World Class Scholar Grants

12 Sec. 1. A state institution of higher education may apply for one
13 (1) or more challenge grants from the world class scholars fund.

14 Sec. 2. A challenge grant may be used by a state educational
15 institution to recruit and retain one (1) or more world class
16 scholars to the state educational institution by doing any of the
17 following:

18 (1) Endowing a chair at the state educational institution.

19 (2) Establishing or enhancing research facilities and
20 laboratories and providing specialized equipment that is
21 conducive to the conduct of the highest quality of scholarship
22 and research.

23 (3) Entering into a collaborative arrangement with the private
24 sector, a private educational institution, or another state
25 educational institution to stimulate the transfer of research
26 and technology into marketable products and increase the
27 capacity of the state educational institution to compete
28 successfully for federal or private research and development
29 funding.

30 Sec. 3. (a) The board shall establish criteria and an application
31 procedure for awarding challenge grants under this chapter.

32 (b) Each application must be evaluated by an expert review
33 panel selected by the board. A panel member may not have a
34 relationship with any private entity or public or private institution
35 of higher learning in Indiana that would constitute a conflict of
36 interest for the panel member.

37 Sec. 4. A successful applicant for a challenge grant must be
38 recommended by the board and must provide matching funds in an
39 amount that meets or exceeds the amount of the grant requested by
40 the application.

41 Sec. 5. Upon notification that an applicant:

42 (1) receives a favorable recommendation under section 4 of
43 this chapter; and

44 (2) meets any other criteria established by the board;

45 the commission shall release the funds to the state educational
46 institution. A challenge grant awarded under this section must be
47 used for the purposes permitted under section 2 of this chapter and

1 must be spent according to an expenditure plan developed by the
2 applicant and approved by the board.

3 **Chapter 6. World Class Scholars Fund**

4 **Sec. 1. (a)** The world class scholars fund is established to
5 provide grants to state educational institutions to recruit and
6 retain world class scholars.

7 **(b)** The commission shall hold, administer, and manage the
8 fund.

9 **(c)** Expenses of administering the fund shall be paid from money
10 in the fund.

11 **(d)** The fund consists of the following:

12 **(1)** Money received from a manager under IC 4-30-21-12.

13 **(2)** Appropriations from the general assembly.

14 **(3)** Grants and gifts intended for deposit in the fund.

15 **(4)** Interest, premiums, gains, or other earnings on the fund.

16 **Sec. 2.** Notwithstanding IC 5-13, the treasurer of state shall
17 invest the money in the fund not currently needed to meet the
18 obligations of the fund in the same manner as money is invested by
19 the public employees' retirement fund under IC 5-10.3-5. The
20 treasurer of state shall invest the money in the fund in a manner
21 consistent with the plan developed by the board under
22 IC 21-49-4-1. However, the treasurer of state may not invest the
23 money in the fund in equity securities. The treasurer of state shall
24 also comply with the prudent investor rule set forth in IC 30-4-3.5.
25 The treasurer of state may contract with investment management
26 professionals, investment advisors, and legal counsel to assist in the
27 investment of the fund and may pay the state expenses incurred
28 under those contracts from the fund.

29 **Sec. 3.** The fund is considered a trust fund for purposes of
30 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise
31 removed from the fund by the state board of finance, the budget
32 agency, or any other state agency.

33 **Sec. 4.** Money remaining in the fund at the end of a state fiscal
34 year does not revert to the state general fund but remains available
35 to the commission to award grants under this article.

36 **Sec. 5.** Money in the fund is continuously appropriated to the
37 commission for purposes of this article.

38 **SECTION 74.** IC 4-30-11-9 IS REPEALED [EFFECTIVE UPON
39 PASSAGE].

40 **SECTION 75.** [EFFECTIVE UPON PASSAGE] Notwithstanding
41 IC 4-30-8.5, as added by this act, an unlicensed vendor that:

42 **(1)** is awarded a major procurement contract by the
43 commission before the effective date of a management
44 agreement; and

45 **(2)** submits an application for a vendor's license;

46 may continue to furnish goods or services for the lottery for not
47 more than one hundred eighty (180) days after the effective date of

1 the management agreement.

2 SECTION 76. [EFFECTIVE UPON PASSAGE] (a) The definitions
3 set forth in IC 4-30-21, as added by this act, apply to this
4 SECTION.

5 (b) If the contracting agencies enter into a management
6 agreement under IC 4-30-21, as added by this act, the Indiana
7 gaming commission shall adopt temporary rules to implement this
8 act in the manner provided for the adoption of emergency rules
9 under IC 4-22-2-37.1.

10 (c) A temporary rule adopted under this SECTION expires on
11 the earliest of the following:

12 (1) The date that another temporary rule adopted under this
13 SECTION supersedes or repeals the previously adopted
14 temporary rule.

15 (2) The date that a permanent rule adopted under IC 4-22-2
16 supersedes or repeals the temporary rule.

17 (3) The date specified in the temporary rule.

18 SECTION 77. [EFFECTIVE UPON PASSAGE] The provisions of
19 this act are severable in the manner provided by IC 1-1-1-8(b).

20 SECTION 78. [EFFECTIVE UPON PASSAGE] (a) The definitions
21 set forth in IC 4-30-21 apply to this SECTION.

22 (b) Actions taken with respect to:

23 (1) the issuance of a request for qualifications;

24 (2) the determination of responsible and eligible offerors; and

25 (3) the preliminary selection of a manager by the authority;
26 for a management agreement before the effective date of this act
27 that would have been valid under IC 4-30-21, as added by this act,
28 are legalized and validated."

29 Renumber all SECTIONS consecutively.

(Reference is to HB 1340 as printed January 25, 2008.)

Representative Torr